

Appln. No.: 10/085,910
Response dated October 29, 2008
Reply to Office Action of September 18, 2008

REMARKS/ARGUMENTS

The Office Action of September 18, 2008, has been carefully reviewed and these remarks are responsive thereto. Claims 24-30 have been canceled. Claims 1, 3-23, 31-42, 44, 46, and 47 remain pending. No new subject matter has been added. Reconsideration and allowance of the application are respectfully requested.

Rejections Under 35 U.S.C. § 112

Claims 1 and 24 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More specifically, the referenced claims are rejected based on the recitation of "via a uni-directional protocol." This rejection is traversed.

Applicants refer the Office to the originally filed specification as a whole for written description support. In particular, Applicants refer to at least paragraphs [15]-[16] and Figure 1. As described therein a wireless cell (11, 13, and 15) typically includes *a transmitter* (21, 23, and 25) *broadcasting information signals* (29a, 29b, and 29c), and that a mobile terminal, such as a wireless *receiver*, located in the wireless cell (e.g., cell 11) may elect to receive the information signal (e.g., 29a) provided by the respective transmitter (e.g., 21). See also paragraphs [29]-[30] and Figure 6 (multi-protocol encapsulator 105, element 107 digital broadcast transmitter, and element 111 digital broadcast receiver). Thus, based on at least the foregoing citations, a uni-directional protocol is supported by the specification. As such, Applicants request withdrawal of the corresponding section 112 rejection.

Claims 24-30 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 24-30 have been canceled, rendering this rejection moot.

Rejections Under 35 U.S.C. § 103

Claims 1, 6-8, 21, 23-29, 31, 33-38, 41, 42, and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson (U.S. Pat. No. 5,513,246) in view of Chen (U.S. Pat. No. 6,731,936), and further in view of Malek (U.S. Pat. No. 5,822,313) and Upton (U.S. Pat. No. 5,784,695).

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Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Ahopelto (U.S. Pat. No. 5,970,059).

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Official Notice.

Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Taketsugu (U.S. Pat. No. 5,420,863).

Claims 9-14, 16, 18-20, and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, and further in view of Makinen (U.S. Pat. No. 5,764,700), and further in view of Upton.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of Doshi (U.S. Pat. No. 5,936,965).

Claim 32 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Doshi.

Claims 40 and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of Malek.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of Lim (U.S. Pat. No. 6,766,168).

Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Lim.

Claim 47 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of TR 101 190 V1.1.1 (1997-12) Digital Video Broadcasting (DVB); Implementation Guidelines for DVB Terrestrial Services; Transmission Aspects.

These rejections are traversed for at least the following reasons.

Independent claim 21 recites, among other features, “. . . when said second bit-error rate is less than said quasi-error-free value, *the mobile terminal . . . switching reception to said second wireless transmitter.*”

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In Applicants' Amendment and Request For Reconsideration dated August 20, 2008, at page 16, and in Applicants' Response and Request For Reconsideration dated June 27, 2008, at the bottom of page 15 and at the top of page 16, Applicants discussed Jonsson demonstrating performing switching at a mobile services center, as opposed to at a mobile terminal as required by claim 21. Applicants further discussed the reason why one of skill in the art would not have had an apparent reason to modify Jonsson to include functionality to perform the switching at a mobile terminal (as allegedly taught by Chen). Applicants incorporate those remarks herein by way of reference.

In short, one skilled in the art would not have had a reason to modify Jonsson to incorporate the alleged teachings of Chen because doing so would result in an unnecessary duplication of computing resources. In particular, computing resources related to performing a switching of reception as recited in claim 21 would be located at both the mobile services center and the mobile terminal once the proposed combination of Jonsson and Chen was formulated. Thus, one skilled in the art, starting from Jonsson's switching mechanism located at the mobile services center, would not have had an apparent reason to incorporate Chen's alleged teachings of performing the switching at a mobile terminal. As such, Applicants respectfully submit that the combination of references is improper for at least these reasons. Thus, claim 21 is allowable, as no other combination of the applied references discloses all of the features of claim 21 (notwithstanding whether any such other combination is proper).

Independent claim 9 recites, among other features, "an election module for switching reception of the mobile terminal from the first wireless transmitter to the second wireless transmitter . . ." For reasons substantially similar to those discussed above with respect to claim 21, the combination of Jonsson and Chen is improper because one skilled in the art, starting from Jonsson, would not have had a reason to incorporate the alleged switching functionality located at a mobile station of Chen. As such, claim 9 is allowable for at least similar reasons.

Independent claims 1, 16, 24, 31, and 36 recite features similar to those described above with respect to claim 21. Claims 1, 16, 24, and 36 are allowable for at least similar reasons.

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Furthermore, independent claim 24 recites, among other features, one or more computer-readable storage media storing executable instructions that, when executed by a processor, cause a device to "receive at a digital broadcast receiver included in the device a digital video broadcasting information from a plurality of synchronized digital video broadcasting wireless transmitters, wherein each synchronized transmitter synchronously transmits *via a uni-directional protocol* a common content signal, and wherein at least a first portion of the digital video broadcasting information is received as a first transmission burst, said first transmission burst broadcast by a first digital video broadcasting wireless transmitter of the plurality of wireless transmitters."

Applicants incorporate the remarks included at pages 14-15 of Applicants' Amendment dated August 20, 2008 as to why one of skill in the art would not have modified Jonsson and Chen (and Upton) to include Malek, based on the bi-directional nature of the Malek TDMA controller. In addition to the MPEP provisions discussed at pages 14-15 of Applicants' Amendment dated August 20, 2008, as they relate to a section 103 rejection and requiring that references be considered as a whole, Applicants also refer the Office to MPEP § 2143.01 (providing that the proposed modification or combination of the prior art cannot change the principle of operation of a reference). The Malek reference, when considered as a whole, operates on the basis of a bi-directional TDMA controller. The Office fails to account for the change that would be required of the bi-directional TDMA controller to realize a uni-directional protocol as recited in claim 24. Based on the MPEP provisions cited, the combination of references is improper, and claim 24 is allowable for at least these additional reasons.

Amended independent claim 1 recites features similar to those specifically described above with respect to claim 24. As such, claim 1 is further allowable for at least similar reasons.

The dependent claims are allowable for at least the same reasons as their respective base claims because any of the additional reference(s) fail to cure the deficiencies of the references applied to the base claims.

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CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the examiner believes the application is not in condition for allowance or there are any questions, the examiner is requested to contact the undersigned at (202) 824-3153.

Respectfully submitted,

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